



ESPAÑA

STATEMENT

BY THE AMBASSADOR, PERMANENT REPRESENTATIVE OF SPAIN
TO THE UNITED NATIONS

H.E. Mr. Agustín Santos Maraver

AT THE SIXTH COMMITTEE
OF THE 76th SESSION OF THE GENERAL ASSEMBLY

Agenda item 83: Crimes against humanity

New York, 15 October 2021

(Unofficial translation. Check against delivery)

Thank you very much, **Mr./Madam. Chair**:

At the outset, Spain wishes to express its full association with the content of the intervention of the representative of the European Union, and wishes to underline some aspects of particular interest to my country.

Mr./Madam Chair, as could not be otherwise, Spain supports the efforts leading to the elaboration of a Convention on the basis of the draft articles of the International Law Commission prepared by Professor Sean Murphy adopted on second reading in 2019. Spain also wishes to reiterate, as it did in 2019 when the draft articles were adopted and so reflected in the annual report of the International Law Commission, its conviction that this initiative will be successful, and will have the consensus of the Member States of the United Nations.

Crimes against humanity represent one of the most serious scourges of the international community. Along with genocide and war crimes, crimes against humanity represent a systemic and widespread attack on international law and civilization itself. The international community cannot remain indifferent to them. However, while genocide and war crimes are specifically regulated by conventions that require States to prevent and punish such conducts, and to cooperate towards that end, crimes against humanity lack an international convention of the same rank to perform the same function.

Furthermore, Spain is particularly interested in the potential beneficial effects of the interaction of this future treaty with other instruments on criminal responsibility for the most serious violations of international humanitarian law and international human rights law. To promote at the national level investigations, prosecutions and, where appropriate, convictions; and, at the international level, to provide a basis for the strengthening of inter-State judicial cooperation.

Mr./Madam Chair, Spain understands that a "Convention for the Prevention and Punishment of Crimes against Humanity" should aim to fill the apparent normative gap in the system, and should also reinforce the commitment of all States to prevent and, if necessary, punish these atrocious crimes. To achieve these goals, the future Convention must have certain characteristics, which can be summed up as consensus and universality. Therefore, the path we follow to its definitive adoption must be as robust, inclusive and consensus-building as the result we intend to achieve.

With these premises in mind, Spain invites all States to persist in the search for an adequate and inclusive process, within a forum of broad participation that analyzes and examines the draft articles with due care and depth.

Mr./Madam. Chair, with no intention to predetermine the process that Member States would choose in order to make an informed decision on the future of the International Law Commission's work, I would like to point out that this process should be seen as a great opportunity for the important relationship between the International Law Commission and this Sixth Committee. A great opportunity to renew the dialogue between the two bodies involved in the progressive development and codification of international law, in a task as important as this one: adopting a treaty to accompany the international instruments that already regulate the prevention and punishment of genocide and war crimes.

Hoping that the appropriate path will finally be found in order to analyze in detail the recommendation of the International Law Commission, we cannot express any doubt or hesitation about the validity of the relationship between the International Law Commission and the Sixth Committee of the General Assembly, especially in regard to the most structural elements of international law. And this initiative will be, indeed, one of them. Therefore, you can count on Spain to bring this initiative to a successful conclusion, in the form of a Convention on the Prevention and Punishment of Crimes against Humanity.

Mr./Madam Chair, in conclusion, Spain invites all States to engage in a constructive and effective debate, particularly those which sustain more ambitious positions and those which are more reticent, in order to achieve the desired outcome. If we want to follow the recommendation of the International Law Commission, we must aim for a Convention that is capable of having the desired effects in terms of prevention and punishment of crimes against humanity. Spain will work in this direction, always bearing in mind the importance of preserving the valuable relationship of this Commission with the International Law Commission.